**Section 1400.2025 Sole Source Procurements**

a) Application

The provisions of this Section apply to procurement from a sole economically feasible source (referred to as sole source) that is above the limit for small purchases in Section 1400.2020 and does not qualify as an emergency procurement as defined in Section 1400.2030.

b) Conditions for Use of Sole Source Procurement

Sole source procurement is permissible when a good or service is available from only a single supplier or when only one supplier is deemed economically feasible. A requirement for a particular proprietary item by itself does not justify a sole source procurement if there is more than one potential bidder or offeror authorized to provide that item. The following are examples of circumstances that could necessitate sole or sole economically feasible source procurement:

1) compatibility of equipment, accessories, replacement parts or service is a paramount consideration;

2) items are needed for trial use or testing of that specific product or service;

3) item is for commercial resale;

4) noncompetitive public utility services;

5) item is proprietary, copyrighted or patented and the item or service is not available except from the named vendor or, where applicable, holder of the copyright or patent;

6) media for advertising;

7) art, entertainment services or athletic events;

8) radio and television broadcast rights;

9) procurements related to participation in educational, professional, research, public service activities of organizations of which the Treasurer's office is a member, professional memberships and related expenses. These procurements may include, but are not limited to, dues and membership fees, travel and lodging, and facility usage fees;

10) federal or State grant requires contract with named vendor;

11) items required by franchise agreements; and

12) changes to existing contracts (see subsection (c)).

c) Changes to existing contracts germane to the original contract that are necessary or desirable to complete the project, and that can be best accomplished by the contract holder, may be procured under this provision.

d) The determination as to whether a procurement may be made as a sole source must be made by the Chief Procurement Officer in writing and must include an explanation of why no other source would be suitable or acceptable. The determination must be made part of the procurement file.

e) The Chief Procurement Officer shall, having defined a sole economically feasible source, issue a notice of intent to utilize the sole source method of procurement that sets forth a description of the item to be procured and the intended sole source contractor. A notice containing the following information must be published as provided in Section 1400.1505:

1) name of the Chief Procurement Officer who made the determination to utilize the sole source procurement;

2) name of the vendor;

3) brief description of what the vendor will do or provide;

4) contract price (to the extent known); and

5) reason why the vendor was determined to be the sole economically feasible source.

f) If a written protest is filed by an interested party pursuant to Section 1400.4005 requesting a public hearing, then the Chief Procurement Officer shall, after posting a notice as provided in Section 1400.1505, hold a public hearing and take public testimony concerning the proposed sole source designation. If there is no protest to the Chief Procurement Officer's determination or if the Chief Procurement Officer is convinced that the sole source designation is appropriate after considering the protest, a contract may be executed with the selected sole source vendor. If a written protest is received and, after considering the protest, the Chief Procurement Officer is convinced that the sole source designation is not appropriate, the Chief Procurement Officer shall commence a competitive method of procurement unless an emergency situation exists.

g) Negotiation in Sole Source Procurement

The Chief Procurement Officer shall conduct negotiations, as appropriate, in an effort to obtain the most favorable price, delivery and other terms and conditions available for the State.

h) Maintenance of Record

The Chief Procurement Officer shall maintain a record of sole source procurements in the procurement file showing:

1) the vendor's name;

2) the amount and type of the contract; and

3) a listing of the goods or services procured under each contract.

(Source: Amended at 48 Ill. Reg. 2924, effective February 7, 2024)